

### **REMARKS/ARGUMENTS**

The Office Action of December 20, 2007 has been carefully reviewed and these remarks are responsive thereto. No new matter has been added. Claims 1-24 are pending upon entry of the present paper. Reconsideration and allowance of the instant application are respectfully requested.

#### ***Claim Status Correction***

Pursuant to the Office Action at page 2, the status of claims 21, 22, and 24 has been revised to indicate a status of "Previously Presented."

#### ***Claim Objections***

Claims 1-24 are objected to based on features related to determining that a program was selected for a time greater than a predetermined threshold and responsive to determining that the program is selected for at least a time greater than the predetermined threshold, displaying selected content in a background area of an interactive programming guide, wherein the selected content is overlapped by information related to the program. More specifically, the Office Action at pages 3-4 requests clarification as to where in the specification support is found for such features. Applicant refers the Office to the specification as a whole for such support, and in particular, in at least paragraphs [0003], [0004], [0014] and [0025] of the published application (US 2002/0188946). Applicant notes that paragraphs [0003] and [0004] disclose that interactive programming guides (IPGs) display information about broadcasted programs, that an IPG may also include a background area, and that the content of the background area may be selectable. Paragraph [0014], in conjunction with Figure 1, illustrates a flow diagram for selecting content to be displayed in the background area of an IPG. Paragraph [0025], in conjunction with Figure 2B, illustrates a flow diagram for adding a category to a set of categories of content of broadcasted programs, and by way of example, demonstrates that if a television was tuned to any number of broadcasted programs containing content predetermined to be in the "sports" content category over a combined span of 45 minutes, and if the first predetermined threshold was equal to 30 minutes, then the "sports" category from the first set of categories of content of broadcasted programs would be added to the second set of categories of content of broadcasted programs.

In view of at least the foregoing disclosures, Applicant submits that the above-noted features are supported by the specification. Accordingly, Applicant requests withdrawal of the corresponding objection.

***Rejections Under 35 U.S.C. § 103***

Claims 1-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2006/0010469 to Reynolds et al. ("Reynolds"), in view of U.S. Patent No. 5,812,123 to Rowe et al. ("Rowe"). Applicant traverses.

Independent claim 1 recites, *inter alia*, "determining that the first broadcasted program is selected for at least *a time greater than a predetermined threshold*; and responsive to determining that the first broadcasted program is selected for at least a time greater than the predetermined threshold, displaying the selected content in the background area of the interactive programming guide, wherein the selected content is overlapped by information related to the first broadcasted program."

The Office Action at page 5 concedes that Reynolds fails to disclose features related to those noted above as recited in claim 1. The Office attempts to remedy the deficiencies of Reynolds in this respect by combining Reynolds with Rowe to allegedly demonstrate the recited features.

Applicant incorporates herein by way of reference the remarks included in Applicant's "Amendment To Accompany Request For Continued Examination" dated October 30, 2007 at pages 6-7, and more specifically, the lack of an apparent reason to modify Reynolds to include such a feature. In short, Applicant notes that the purpose of Reynolds is to overcome the limitations of passive television program guides. See Reynolds at paragraph [0003]. Applicant submits that a modification of Reynolds to incorporate features related to determining that the first broadcasted program is selected for at least *a time greater than a predetermined threshold* as recited in claim 1 would be improper since such a modification would clearly frustrate the intended purpose and performance objectives of Reynolds.

Applicant refers the Office to MPEP § 2143.01 (III. Fact That References Can Be Combined Or Modified May Not Be Sufficient To Establish *Prima Facie* Obviousness). In accordance with the noted provision, Applicant notes that the mere fact that references can be

combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art. (emphasis in original). Furthermore, Applicant notes that MPEP § 2143.01 (V. The Proposed Modification Cannot Render The Prior Art Unsatisfactory For Its Intended Purpose) states that there is no suggestion or motivation to make a proposed modification to a prior art invention when the proposed modification would render the prior art invention unsatisfactory for its intended purpose. Moreover, Applicant notes that MPEP § 2141.02 (VI. Prior Art Must Be Considered In Its Entirety, Including Disclosures That Teach Away From The Claims) requires that a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. (emphasis in original).

Notwithstanding whether Rowe teaches or suggests the above-noted features as recited in claim 1, Applicant submits that the proposed combination of Rowe and Reynolds is improper because such features would render Reynolds unsatisfactory for its intended purposes. Accordingly, Applicant submits that the rejection of claim 1 based on a combination of Reynolds and Rowe is improper, and that claim 1 is allowable for at least these reasons.

Moreover, with respect to the above-noted features as recited in claim 1, claim 1 requires displaying the selected content in the background area of the interactive programming guide, wherein the selected content is overlapped by information related to the first broadcasted program. Reynolds and Rowe, either separately or in combination, fails to teach or suggest such features. Instead, Reynolds at paragraphs [0089] and [0090] merely discloses that a hybrid guide may be generated by an interactive guide using an overly technique to overlay program listings display area, text display area, graphic display areas, video display areas, or interactive feature areas *onto a passive guide display screen*. Even assuming, without conceding, that the passive guide constitutes a background area, nowhere does Reynolds teach or suggest displaying content selected in the interactive guide in the passive guide display screen, wherein the selected content is overlapped by information related to a first broadcasted program. Indeed, the passive guide display corresponds to a specific and passive channel in a broadcast lineup. See, e.g., p. 8, para. [0088]. Thus, the passive guide display would not change based on what is selected in the interactive guide. Rowe is similarly deficient and thus does not cure the above noted deficiencies of Reynolds. Accordingly, claim 1 is allowable for this additional reason.

Independent claims 8, 15, and 23 recite features similar to those described above with respect to claim 1. Claims 8, 15, and 23 are therefore allowable for at least the same reasons discussed above with respect to claim 1.

Claims 2-7, 9-14, 16-22, and 24, which each depend from at least one of independent claims 1, 8, 15, and 23, are allowable for at least the same reasons as their respective base claims, and further in view of the additional advantageous features recited therein.

### **CONCLUSION**

All rejections having been addressed, Applicant respectfully submits that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same. Should the Examiner find that a telephonic or personal interview would expedite passage to issue of the present application, the Examiner is encouraged to contact the undersigned attorney at the telephone number indicated below.

If any additional fees are required or if an overpayment has been made the Commissioner is authorized to charge or credit Deposit Account No. 19-0733. Applicant looks forward to passage to issue of the present application at the earliest convenience of the Office.

Respectfully submitted,  
  
BANNER & WITCOFF, LTD.

Dated: March 20, 2008

By: /Chunhsi Andy Mu/  
Chunhsi Andy Mu  
Registration No. 58,216

1100 13th Street, N.W.  
Suite 1200  
Washington, D.C. 20005-4051  
Tel:(202) 824-3000  
Fax:(202) 824-3001